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August 17, 2020

Via CM/ECF System

The Honorable Lorna G. Schofield
United States District Court
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square, Courtroom 1106
New York, NY 10007

Re: Request for Extension of Time to Effect Service & Adjournment of Initial Pretrial Conference
Al's Produce LLC v. APL Co. Pte Ltd.
S.D.N.Y. Case No. 1:20-cv-04109
Our Ref: 34872

Dear Judge Schofield:

We represent Plaintiff Al's Produce LLC in the above-referenced action. We write to respectfully request: (i) an extension of time to effect service of the summons and complaint on Defendant APL Co. Pte Ltd. under Rule 4(m) of the Federal Rules of Civil Procedure; and (ii) an adjournment of the initial pretrial conference currently scheduled for September 17, 2020 at 10:30 a.m.

Plaintiff commenced this action on May 29, 2020, seeking to recover for alleged damage to three shipments of fresh asparagus transported by ocean carriage from Peru to the United States in August-October 2018 under bills of lading issued by APL. Since then, we have been engaged in substantive settlement discussions with APL's claims department to resolve this matter without significant litigation. We also proposed that APL waive service under Rule 4(d), such that it would have sixty days to answer or otherwise respond to the complaint. However, due to the closure of its offices in response to the COVID-19 pandemic, it would be difficult for APL's claims department to sign and return the waiver form.

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Courts typically find that ongoing settlement negotiations constitute “good cause” for an extension where the plaintiff’s application is made prior to the expiration of the default period set forth by Rule 4(m). *See, e.g., Park Plus, Inc. v. Ardeon Realty Corp.*, 2014 WL 338543 at *2-3 (S.D.N.Y. Jan. 28, 2014) (citing, *inter alia*, *Bank of Cape Verde v. Bronson*, 167 F.R.D. 370, 371 (S.D.N.Y. 1996)). Thus, we submit that good cause exists in this case because APL’s answer is currently due on August 27, 2020, *i.e.*, ninety days from the filing of Plaintiff’s complaint.

We respectfully request that the deadline for Plaintiff to effect service be extended by sixty (60) days to **October 26, 2020**. This is the first such request made by Plaintiff. Although APL has not formally appeared in this action through counsel, Associate Cargo Claims Manager Chester Braga (reading in copy) has reviewed this letter motion and consents to the relief requested by Plaintiff.

We also request that the initial pretrial conference currently scheduled for September 17, 2020 at 10:30 a.m. be adjourned likewise by sixty (60) days, subject to the Court’s availability, to a date on or after **November 16, 2020**. This is the first such adjournment request made by Plaintiff, and APL once again consents to the proposal.

We thank the Court for its attention to the foregoing requests and stand by ready to answer any questions that the Court may have regarding this action.

Respectfully submitted,
HILL RIVKINS LLP



Justin M. Heilig

Cc: Mr. Chester Braga (uscargocClaims@apl.com)

Application GRANTED. The deadline to effect service is hereby extended from **August 27, 2020**, to **October 26, 2020**. The initial pre-trial conference is adjourned from **September 17, 2020, at 10:30 A.M.** to **November 19, 2020, at 10:30 A.M.** Materials for the conference shall be filed in ECF by **November 12, 2020**. The parties shall call (888) 363-4749 and use Access Code 558-3333. The time of the conference is approximate, but the parties shall be ready to proceed at that time. The parties are advised that no further extensions to effect service will be granted.

SO ORDERED.

Dated: August 18, 2020
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

HILL
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